

KANSAS ATTORNEY GENERAL

Derek Schmidt

Crime Victims Compensation Board

Annual Report

Fiscal Year 2011

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OFFICE OF THE ATTORNEY GENERAL



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CRIME VICTIMS COMPENSATION BOARD

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Staff

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Tanya Hoyer-Rogers Investigator
Sheryl Fields Investigator

Yolonda Newman Accounting Specialist

Phyllis Pankratz Secretary

Martha Venzor Office Assistant

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TO: Honorable Sam Brownback, Governor Members of the Kansas Legislature

It is my honor to present the *Crime Victims Compensation Board*'s FY 2011 Annual Report. The *Crime Victims Compensation Board*, as a payor of last resort, continues to provide aid for medical expenses, lost wages, funeral expenses, counseling and other crime related expenses, for hundreds of innocent victims in our State each year.

Our goal is: "To award just compensation to victims for economic loss arising from violent crime," a mission we strive to meet through ongoing partnership with victims' advocates, criminal justice professionals and service providers.

I am grateful to the Board members and my staff, who have served unselfishly to administer this program with compassion, fairness and integrity to ensure crime victims are not forgotten in the criminal justice system. On behalf of my staff and the innocent crime victims of Kansas, I thank you for your continued support of the Kansas Crime Victims Compensation Board.

Sincerely,

Derek Schmidt Kansas Attorney General

TABLE OF CONTENTS

I. Introduction1
II. Composition of the Crime Victims Compensation Board
III. Eligibility and Diminishment of Compensation2
IV. Benefits4
V. Compensation Revenue Sources5
CHARTS
Revenue Sources5
Claims Processing6
Claims Approved by Crime and Expense7
Claims Approved by Age Category8
Expenditures by Award Category8
Denied Claims9
Illustrative Cases10

^{*}All reported values are subject to audit and correction following the close of the fiscal year.

I. INTRODUCTION

The Crime Victims Compensation Board (CVCB) was established by the Kansas Legislature in 1978 pursuant to *K.S.A.* 74-7301, et seq., to provide monetary compensation for out-of-pocket medical expenses, loss of earnings or support, burial expenses, and other costs associated with the treatment of injuries sustained as a result of being a victim of a violent crime. Compensation provided in fiscal year 2011 totaled \$3,982,571. In the first 33 years of its existence, from 1978 through 2011, the Board granted payments to crime victims totaling \$66,095,959. While financial assistance alone does not provide complete restoration, the Legislature is to be commended for recognizing that monetary aid can relieve some of the immediate pressures and stresses that compound the consequences of crime

II. COMPOSITION OF THE CRIME VICTIMS COMPENSATION BOARD

The Crime Victims Compensation Board is a three-member Board appointed by the Attorney General. Members are subject to confirmation by the Kansas Senate. No more than two members of the Board are to be of the same political party. The chair is required by statute to be a person regularly admitted to practice law in Kansas. Each board member is appointed for a term of four years. The Crime Victims Compensation Board consists of seven staff members: an executive director, two investigators, one accounting specialist, one secretary, an office assistant, and a restitution coordinator. The Board meets monthly to review claim summaries and to make claim determinations. The meetings were conducted at the agency office located at 720 SW Jackson Street, Topeka, Kansas.

"I just want to say thank you so much for your care and concern regarding my case."

III. ELIGIBILITY

An application for compensation may be filed by:

- (1) the victim;
- (2) a dependent of a deceased victim;
- (3) a third person other than a collateral source; or
- (4) an authorized person acting on behalf of any of the above.
- ➤ The claim must be filed within two years of the incident (Child sexual assault claims are based on the date the crime was reported to law enforcement officials).
- ➤ Compensation for mental health counseling may be provided if a claim is filed within two years of testimony to a claimant who is, or will be, required to testify in a sexually violent predator commitment of an offender who victimized the claimant or the victim on whose behalf the claim is made.
- The victim suffered bodily injury or death as a result of the criminal actions of another or the victim needs mental health counseling because of emotional trauma resulting from a violent crime.
- ➤ The incident occurred in Kansas, or committed outside the United States against a person whose domicile is in Kansas.
- ➤ The incident was reported to law enforcement officials within 72 hours or would have been reported within that time except for a valid reason.
- ➤ The victim and/or claimant fully cooperated with law enforcement officials during the investigation and prosecution of his or her case.
- Economic loss (medical expenses, wage loss, etc.) will total \$100 or more and has not been, nor will be, totally paid by other sources. The loss may be less than \$100 for crimes of sexual assault.
- ➤ The claimant was not the offender or an accomplice of the offender. An award may not be made to another person if the award would unjustly benefit the offender or accomplice.
- ➤ Compensation may be awarded only if the Board finds that unless the claimant is awarded compensation, the claimant will suffer financial stress as the result of economic loss that is otherwise reparable. A claimant suffers financial stress only if the claimant cannot maintain his or her customary level of health, safety and education without undue financial hardship

DIMINISHMENT OF COMPENSATION

The Board may diminish a claim if:

- ➤ The board finds the claimant or victim has not fully cooperated with the appropriate law enforcement agencies.
- > The economic loss is recouped from other sources, including collateral sources.
- > The board deems reasonable...
 - o because of the *contributory misconduct* of the claimant or of a victim whom the claimant claims.
 - o because the victim was likely engaging in or attempting to engage in unlawful activity at the time of the crime (does not apply to claims for sexual assault or domestic violence).

CONTRIBUTORY MISCONDUCT

K.A.R. 20-2-8

Acts or behaviors that may signify contributory misconduct:

- > Consent, provocation or incitement, including the use of fighting words or obscene gestures.
- ➤ Willing presence in a vehicle operated by a person who is known to be under the influence of alcohol or an illegal substance.
- > Abuse of alcohol or an illegal substance.
- > Failure to retreat or withdraw from a threatening situation when an option to do so is readily available.
- > Failure to act as a prudent person.

(May be excused in claims for domestic violence or sexual assault)

IV. BENEFITS

Compensation payable to a victim, and to all other claimants sustaining economic loss because of injury to or death of that victim, may not exceed \$25,000 in the aggregate.

Compensable Costs/ Limits

- Medical Expenses including transportation to obtain medical assistance -- \$25,000 maximum
- ➤ Mental Health (maximums):
 - inpatient psychiatric care -- \$10,000
 - outpatient counseling -- \$3,500
 - grief therapy for family members of homicide victims -- \$1,000 *All therapy is subject to a \$60.00 per hour maximum allowance.*
- ➤ Dependent Economic Loss, Wage Loss and Replacement Services -- maximum of \$400 per week.
- Funeral and related expenses --\$5,000.
- ➤ Moving Expenses -- reasonable allowance compensable at recommendation of law enforcement.
- ➤ Rehabilitation Services -- \$25.000.
- Reasonable replacement costs for items of clothing and bedding seized as evidence.
- > Crime Scene Cleanup -- \$1,000.
- ➤ Attorney Fees -- \$45 per hour, for claim preparation only.
- > Compensation cannot be provided for pain and suffering.
- > Property items are not subject to compensation.

V. COMPENSATION REVENUE SOURCES

- ➤ The Crime Victims Compensation Board receives funding from both the state and federal government. The monies come from the following sources:
- ➤ 10.94 percent of all fines, penalties and forfeitures remitted from Kansas district courts.
- Fines, penalties and forfeitures from federal convictions. These funds are administered through Victims of Crime Act (VOCA) grants by the Office for Victims of Crime within the U.S. Department of Justice. States may apply for a grant each year equal to 60 percent of the total awarded to victims from state funds in the previous federal fiscal year.
- ➤ Court-ordered restitution from offenders, subrogation, and refunds. Judges are encouraged to order offenders to pay restitution to reimburse the fund for awards granted. Refunds and funds from subrogation are received when a claimant's financial obligation has been met through a collateral source.
- ➤ Kansas Department of Corrections. Five percent of the gross wages of inmates employed in a private industry program other than work release, a portion of supervision fees from parolees and probationers, and administrative fees assessed to inmates for maintenance of their trust accounts are paid to the Crime Victims Compensation Fund.

Crime Victims Compensation - Revenue						
REVENUE SOURCES	FY2011	FY2010	FY2009	FY2008	FY2007	
Fines/Penalties	\$2,158,157	\$2,364,209	\$2,444,952	\$2,480,644	\$2,481,576	
Restitution	213,792	142,959	194,100	231,778	227,451	
Subrogation	72,923	83,817	128,465	35,982	33,557	
Department of Corrections	Department of Corrections					
Parole Supervision and Administrative Fees	305,525	286,801	26,025	311,020	296,742	
**Inmate Contributions **Prison Industries Employment (PIE)	226,090	164,389	129,924	276,883	294,659	
TOTAL	\$2,976,487	\$3,042,175	\$2,923,466	\$3,336,307	\$3,333,985	
DEPARTMENT OF JUSTICE GRANTS						
VOCA	1,710,000	1,488,000	1,327,000	1,720,000	1,220,000	
ARRA	0	0	346,403	0	0	
GRANT TOTAL	1,710,000	\$1,488,000	\$1,673,403	\$1,720,000	\$1,220,000	

CRIME VICTIMS COMPENSATION CLAIMS PROCESSING

FY 2011

DESCRIPTION	FY 2011	FY 2010	FY 2009	FY 2008	FY 2007
NEW CLAIMS RECEIVED	1,352	1,397	1,358	1,373	1,277
TOTAL NUMBER OF CLAIMS GRANTED AWARDS	915	1,013	1,025	911	1,082
AMOUNT AWARDED ON CLAIMS	\$3,996,822	\$3,792,444	\$4,624,953	\$3,510,747	\$4,177,576
AVERAGE AMOUNT AWARDED ON CLAIMS	\$4,368	\$3,744	\$4,512	\$3,854	\$3,861

APPROVED CLAIMS – FY 2011

Claims Approved by Crime and Expense				
CRIME	Claims Approved	Amount Paid		
Arson	0	0		
Assault	362	2,435,428.78		
Child Abuse (Homicide)	6	8,882.20		
Child Physical Abuse	12	18,844.81		
Child Sexual Abuse	148	102,397.93		
Domestic Assault	147	681,075.04		
Domestic Homicide	13	37,071.92		
DUI	9	60,771.10		
DUI Homicide	3	860.00		
Kidnapping	5	8,485.96		
Murder/Homicide	69	209,265.00		
Other Vehicular	15	152,905.00		
Robbery	37	159,905		
Sexual Assault	77	99,721.81		
Stalking	3	2,187.85		
Vehicular Homicide	3	5,494.95		
Total Claims Approved 909				
Total Amount Awarded on Claims \$3,982,751.70				

AWARDS BY AGE AND EXPENSE

CLAIMS APPROVED BY AGE CATEGORY – FY 2011			
AGE CATEGORY	TOTAL CLAIMS	AWARD	
ADULT (18-64)	697	3,725,770	
MINOR (0-17)	205	234,229	
SENIOR (65 and above)	7	22,753	
FY 2011 Total	909	\$3,982,752	

EXPENDITURES BY AWARD CATEGORY – FY 2011				
EXPENSE AWARD				
> MEDICAL	3,418,751.11			
> MENTAL HEALTH	142,945.78			
> SUPPORT LOSS	193,704.21			
> CLOTHING BEDDING	3,833.89			
> FUNERAL	213,947.16			
> CRIME SCENE CLEAN-UP	1,789.95			
> RELOCATION	4,701.17			
> OTHER (Miscellaneous Expenses)	3,078.43			
FY 2011 TOTAL	\$3,982,751.70			

DENIED CLAIMS

REASON FOR DENIAL	TOTAL
 Application Submitted Out of Time (2 Years) 	2
Contributory Misconduct	59
• Crime Not Reported to Law Enforcement (72 Hours)	3
Crime Occurred Out of State	3
Failure to Cooperate With Law Enforcement/Prosecution	31
No Evidence of a Person Crime	24
Unjust Enrichment of Offender	1
Victim Involved in Illegal Activity	15
FY 2011 TOTAL CLAIMS DENIED	138

2011 ILLUSTRATIVE CASES

Assault

An evening gathering of friends having a party was disrupted when several uninvited men entered the home. The owner of the home asked the uninvited men to leave. The uninvited men began assaulting guests. The result was several people being injured. One claimant sustained a severe concussion and injury to his mouth. Medical bills in excess of \$30,000 were incurred as a result of the unprovoked attack upon the victim.

The Board approved the maximum payment allowed of \$25,000 in medical expenses.

Domestic Assault (Homicide)

An argument between a couple resulted in a man shooting his girlfriend and then turning the gun on himself. The survivors of the female victim arranged for the burial of their family member and submitted a claim for reimbursement of their funeral/burial expenses.

The Board approved payment of \$1,139 in funeral/burial expenses.

Sexual Assault

A woman sleeping in her home was awakened in the middle of the night by an unusual sound in her room. When she opened her eyes she saw a naked man was standing to the side of her bed. The victim was beaten with a pistol and sexually assaulted by the man who had entered her home through a bathroom window. The victim sustained numerous injuries as a result of the attack.

The Board approved payment of \$11,848 in medical expenses.

Child Abuse

A 4-year-old child who disturbed the sleep of his step-father was thrown against a wall and sustained numerous physical injuries. The injuries resulted in a short-term hospital stay and criminal prosecution of the step-father.

The Board approved payment of \$3,259 in medical expenses.

Domestic Assault

A jealous boyfriend attacked his girlfriend with a knife for speaking to another man. The attack resulted in the victim being hospitalized in serious condition. Ambulance, emergency room services and a stay in the hospital resulted in significant medical expense.

The Board approved payment of \$23,526 in medical expenses.